

Riback



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Techniarts Engineering
File: B-231648
Date: June 22, 1988

DIGEST

1. Where protester alleges that agency unreasonably delayed the procurement for the benefit of another firm involved in the competition but the other firm has previously been excluded from the competitive range, protest is academic.
2. Protester alleging that agency's second request for best and final offers (BAFOs) was improper and that award should be based upon first round of BAFOs is not an interested party to protest where protester was not in line for award under first round of BAFOs and therefore has no direct economic interest which would be affected as a result of agency's failure to award a contract on the basis of the first round of BAFOs.

DECISION

Techniarts Engineering protests the second request for best and final offers (BAFOs) by the Department of the Army under request for proposals (RFP) No. DAEA08-88-R-0002, issued for the acquisition of a video display and teleconference system. Techniarts argues that the request for second BAFOs resulted in one of the other offerors, Bergen Expo Systems, Inc., being afforded an unfair advantage and that, therefore, award should be made on the basis of the first round of BAFOs.

We dismiss the protest.

The protester alleges that the period of time which elapsed between the submission of first and second BAFOs (approximately 60 days) resulted in Bergen Expo's being afforded a competitive advantage over other offerors under the solicitation. In particular, Techniarts argues that no


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changes were made to the solicitation during the time between first and second BAFOs and that therefore Bergen Expo was essentially afforded an additional two months in which to improve its otherwise unacceptable offer.

We believe that protester's argument in this respect amounts to an allegation that the contracting agency improperly delayed the procurement to benefit Bergen Expo, and that accordingly any award to Bergen Expo would be improper. In this connection, however, we are informed by the contracting agency that Bergen Expo was eliminated from the competitive range prior to the due date for the first BAFOs. Since Bergen Expo has been eliminated from the competitive range and is therefore ineligible for award, Techniarts' protest on these grounds is academic and will not be considered on the merits. See Carolina Parachute Corp., B-226504.2, July 24, 1987, 87-2 CPD ¶ 79.

To the extent that Techniarts is simply protesting that the second request for BAFOs was improper and that award should be based upon the offers submitted pursuant to the first round of BAFOs, we conclude that Techniarts is not an interested party to protest. To be eligible to pursue a protest, a party must be "interested" within the meaning of our Bid Protest Regulations, 4 C.F.R. § 21.0(a) (1988), which in substance define an interested party as one whose direct economic interest would be affected by an agency's failure to award a contract. We are informed by the agency that Techniarts did not submit the low offer under the first round of BAFOs and was therefore not in line for award. Consequently, since Techniarts would not be in line for award even if this Office were to resolve this protest issue in its favor, the protester is not an interested party for purposes of alleging that the agency improperly failed to make award on the basis of the first round of BAFOs. See First Federal Data Services Co., B-224183.2, Feb. 18, 1987, 87-1 CPD ¶ 179.

The protest is dismissed.


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